

3/12/07
(28)

Minutes

BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

June 26, 2006
Francis Faulkner Hearing Room
Acton Town Hall

7:00 P.M.

Present: Chairman, Walter Foster, Peter Ashton, Dore' Hunter, Lauren Rosenzweig, Andy Magee and the Town Manager Don Johnson. The meeting was televised.

CITIZENS' CONCERNS

Citizens from the Brabrook neighborhood¹ Flagg Road, were present to discuss water issues and testing in their wells. Seeing that the item was not on the agenda, Chairman Foster directed the group to look to the Health Department for the answers to some of their concerns. Since the issue is about a non-controlled compound, all involved need to be further educated. A resident stated that they will be testing all of the homes in the neighborhood.

SEWER COMMISSIONERS' BUSINESS

NONE

PUBLIC HEARINGS & APPOINTMENTS

OPERATIONAL MINUTE – Town Manager Don Johnson spoke to the Board about the decision to cancel the 1st concert of the summer concert series at NARA. The weather just proved to be too much of an obstacle and he was very sorry to have to cancel as it did cost the town money. There are several more concerts this summer, (KISS, Pink Voyd, The Drifters, Second Story Band and Help Wanted). The Selectmen's Concert is this Thursday.

CHANGE OF MANAGER, NOT YOUR AVERAGE JOE'S, 305 MAIN STREET – David Chambers has been transferred to Not Your Average Joe's. He has been in the restaurant business for 22 years, 3 years with Not Your Average Joe's. Selectman Rosenzweig asked about their liquor serving policy-How do you make a determination about over serving? The TIPS training program at their restaurant has been replaced with the Bar Code Training Program. It consists of approximately 9 hours of course training once a quarter. An internal corporate person trained in teaching the program rotates to the restaurants various locations. Chairman Foster asked about Community outreach. Mr. Chambers stated that the corporate culture is very involved in participating and honoring community needs. Selectman Magee stated again that Acton takes over-serving very seriously. Mr. Chambers said they card all ages and the bar closes at 10:00 P.M. They also take it very seriously. Servers make the decision to cut off a patron; they will not allow a manager to overrule a server. Selectman Hunter stated establishment is sincere and therefore they should have an updated written serving policy. He would like to see the more detailed written policy. He requested a detailed copy to send to the Board. Selectman Ashton stated that he has experienced and heard that parking seems to be an issue. Mr. Chambers stated they are aware it is a problem and are trying to address it.

Selectman Ashton moved to approve and Selectman Foster seconded. It was repeated that the Board does want a updated copy of the current Bar Code Training Policy. The vote was unanimous with conditions of presenting an updated liquor service policy.

SPECIAL PERMIT/SITE PLAN SPECIAL PERMIT # 11/18/98-366 PHASE II, ROBBINS BROOK SENIOR LIVING COMMUNITY, 906 MAIN STREET – Selectman Foster read the public announcement. George Dimakarakos, from Stamski and McNary, Inc., proposed final plans for Phase III, adding 9 units (85 townhouses). The 9 units being considered tonight are part of the original plan. The proposal calls for an additional affordable unit not required. Mr. Vazza has also offered a contribution to NARA or fund of the town's choosing of \$2500. All departments have reviewed and commented on the proposal. Selectman Ashton asked if the Water District had been involved in finding solutions to some of the residents concerns. They incorporated suggestions from the Water District such as relocating a 16 x 8 tapping sleeve and taking out 2-90 degree bends in the water main. Odor complaints are still coming in. Dan Lipscomb stated a carbon absorbent scrubbing unit is being used and a new one will be added. They have researched the problem. Continuing Care uses White Water for their treatment needs and the developer works with White Water and the Board of Health. It is a wastewater treatment plant and there will be odors, but the developer will develop ways to limit the odors. Selectman Hunter asked if fair notice, due to noise of shooting from Gun Club, is given to perspective buyers. There is a disclosure to any buyer on one side of the development near the Gun Club. Selectman Magee questioned when the total of the design is finished what will be the average flow? Currently it is at 60% build out now with 1 treatment field. It is running under capacity now because the 2nd treatment field is not in use. When water tests are complete and accepted they will open the second treatment plant. (Standard orders of conditions from conservation were required.) Selectman Ashton discussed sidewalks. Selectman Rosenzweig was concerned how the sidewalks were going to be constructed. Sidewalks met the Transportation Advisory Committee's (TAC) approval and will match Main St. sidewalks. TAC was pleased with the attention to detail on the sidewalks. Selectman Foster asked that the Board of Health continue to monitor the on-site wastewater treatment plant. A pro-active step is to backwash 3:00-4:00 am, backwash is another cause of the odor. Clarification was provided on the leaching fields; there are 2 separate fields, DEP requirements have them alternating. A copy of the "as built" is in the control building with White Water...They will provide updated detailed plans for the residents to work from. A Kingsdale Drive resident had a problem with the odor from the septic system and expressed concerns last year and met with the developer. He did not feel it was as bad this year. Elder citizens look to the town for protection. Robbins Brook residents, do they need to absorb an additional \$25K for scrubbers. Residents are saying it was undersized. Residents want to know if they put in a larger scrubber, who will pay? The developer stated they would pay the costs. A resident of Main Street is downwind and did suffer constant odor. Lately, it has been good but will the odor return? He would like to see the odor monitored and if it comes back immediate action can be taken. The Town Manager requested that residents call the Board of Health (BOH). Residents say they were discouraged about non-response from BOH. Selectman Hunter asked at the very least residents should keep a log. Chairman Foster asked the developer to work much closer with the association and the variety of complaints. They do not show sensitivity to the problems. June Barnes needs a copy of the final plans as installed. The current developer did not install irrigation and doesn't have plans. Landscape irrigation system has no plans and street lights have no plans. Questions concerning working street lights were answered. Current maintenance had turned off the lights to move a street light and when they turned lights back on they were 12 hours off. The lights were working they just needed to be reset. They are now reset correctly. Selectman Hunter said a lot of these complaints do not really apply to additional units. Selectman Ashton moved to close the hearing. Selectman Magee was concerned and wanted a continuance until the problems

were addressed. Mr. Dimakarakos stated that the Board of Health still has a hearing in which it can impose conditions additionally; the Health, Engineering and Building Department have a list of requirements before an occupancy permit will be presented.

A vote was taken. 4 in favor of taking the application under advisement and to work more carefully with the residents, White Water and Board of Health - 1 Opposed, Selectman Magee.

ISSUING AUTHORITY REPORT (IAR), CABLE TELEVISION LICENSE PROCESS, VERIZON OF NEW ENGLAND, INC. – Frits Riep presented a draft of the proposed Issuing Authority Report. Staff and Selectmen comments have been incorporated. The Cable Advisory Committee (CAC) would like it approved to send to Verizon. Verizon will have 30 days to respond. The Public Hearing could then be scheduled for the Board's regularly scheduled meeting on Aug. 14. Selectman Foster stated he would approve and send. Selectman Magee noted language that is weak in 2 sections. Mr. Riep stated that all is covered by the level playing field and provisions of the Comcast Agreement. John Covert will adapt minor language changes into the document tonight. Selectman Rosenzweig wanted very clear language that underground is understood, no above ground service poles. **Chairman Foster moved to approve the draft with amendments to be given from John Covert- Selectman Magee seconds - all agree.**

CLASS II DEALER'S LICENSE, WAY AUTO SALES, 188 MAIN STREET – Mr. Moreir of Way Auto Sales presented his plan for parking and passed around pictures. Selectman Rosenzweig asked how many cars the license allows. The limit is 6. Selectman Rosenzweig stated her concern is environmental. She additionally asked if there are any planned improvements on the property. Mr. Moreir stated he would like to make improvements with paint and landscaping.

Selectman Magee read the Building Department's questions regarding parking of on-site construction vehicles. There is a loam pile that will be moved shortly. Twenty two years ago there was a tank problem. It was removed and is clean. DEP had the case closed out. Selectman Ashton requested a check of the taxes to determine if they are current. Chairman Foster wants to see that the property is in proper use. (Repairs go to Acton Gas, do not sit in the lot). These following conditions need to be fulfilled (1) Need proof of Septic system being pumped, (2) 6 cars limit and (3) no storage of stockpiles or construction vehicles.

Selectman Hunter moved to grant approval as long as above conditions are met, Selectman Magee seconds. All voted in favor with conditions.

SEWER EXTENSION REQUEST, SYLVIA STREET – Paul Gaboury presented his request to extend the sewer to Sylvia Street. It is the 3rd request from Mr. Gaboury made since 2003 and in each case all neighbors signed in agreement. In May of 2003, Town of Acton was notified of Maynard's Zone 2. This severely limited South Acton resident's development choices. Selectman Aston asked if there were any staff comments concerning Maynard's Zone II. The Town Manager stated there were none that he knew about. Selectman Hunter asked if staff could find the notification and make comments. Maynard wells are 2000 ft from Sylvia St. Bedrock wells were put in strictly as backup. Selectman Rosenzweig would like staff to note that Sylvia Street has been working on this proposal since 2004. She would like comments to get to MA Environmental Policy Act (MEPA) quickly and the Town Manager suggests getting input from staff. Selectman Foster requests staff input for priority needs area in the Sylvia Street neighborhood. Information is needed on this neighborhood to find out how many bedrooms exist. Could Paul Gaboury provide this information to the Board. Terra Freidrichs stated MEPA says town has control over making changes. Selectman Rosenzweig emphasized MEPA needs to be given the updates as the plan changes. Charles Kadlec asked if the Environmental Notification Form (ENF) has actually been filed. The plan was filed June 30, 2006, setting into motion certain time

frames. It allows 20 days for comments (due to the 4th of July holiday the comment period actually won't start until July 10) and 10 additional days for a decision if an Environmental Impact Report will be needed or certification issued. Health Department needs to be part of discussion of post card mailing and information session prior to the July 11 public comment session. Allen Nitschelm is confused about the process, who should make comments. Beth Petr would like a mailing (pre post card notification) to offer an educational session about the public comment period. MEPA insist on post card for the legal comment period. Chairman Foster stated the Town of Acton has to take initiative to inform and educate people about the public comment period. Citizens say they are paying, so funding is not an issue. Homes are in protected area. (Who was responsible for not seeing the letter from 2003 from Maynard? Maynard's Zone II was not known when Comprehensive Water Resource Management Plan (CWRMP) was done. Selectman Magee urged not to take the plan back and stop the process.

EXCHANGE HALL REDEVELOPMENT PLAN UPDATE – Glen Berger introduced Wayne Belec as project manager and stated that currently plans are stopped. There are 3 existing buildings and 2 entries into the lot (School St. and Main St.) Mr. Belec discussed the existing vegetation. He has made a request to Historic District Commission (HDC) to remove 1 building, 127 Main St. in the back. The plans call for a restaurant on 2 floors, (183 seats) with 3rd floor and 4th floor function rooms. Offices will be located in the second building. Overflow will necessitate valet parking after 6:00 P.M. at commuter lot. Testing on property for ground water is being done next week. Chairman Foster is very pleased to see that work plans are being developed and reviewed with the town staff. The selectmen are happy to see renovation plans for this historic property. There were general questions about the property, many of which can be better answered after the July 5th hearing with the Historic District Commission (HDC). The developer would like to make an arrangement with the town for parking at the Commuter Lot after 6:00 P.M. The Town has current plans to construct an additional lot near Exchange Hall. The selectmen were encouraged by the progress of the plan and asked how viable the completion of this plan. Mr. Berger stated there is an interested person who wants to see leases and requirements from the town. Selectman Ashton addressed traffic concerns, the existing curb is an issue and a Commuting Study should not have been done on a busy Friday. The Town Manager stated staff will be ready to negotiate the lease. Chairman Foster believes the building can be a gem in Acton. The HDC had representation at the meeting and is concerned with demolition and changes in materials. They wanted to make clear the process-Public Hearing 3 week lag time and 2 week newspaper notice, then a site plan is obtained, followed by a special permit. Engineering department will also meet with the developer. Selectman Ashton was assigned to be the site plan representative from the board.

SELECTMEN'S BUSINESS

FY07 REAPPOINTMENT LIST – Chairman Foster called for a temporary measure to allow the Board members to verify with their committees necessary reappointments. The reappointment list will appear back on the July 24th Agenda. Chairman Foster stated the Board will not now act on new volunteers.

Selectman Hunter moved to approve a one month extension for all current board and committee members and Selectman Ashton seconded, all agreed.

BOARD OF SELECTMEN COMMITTEE ASSIGNMENTS AND GOALS DISCUSSION – Selectman Foster assigned Board Members to Committees. See attached. The board reviewed the goals for FY 08.

FY06 YEAR-END BUDGET REPORT – Because of careful budget planning through out the year, the Town Manager anticipated approximately \$220K for FY 2006 and recommended

the Board applies it toward selected items from the Town's capital plan. Selectman Ashton suggested to replenish the Senior Work Program fund with 30K. Selectman Foster selected necessary items from the top of the list of items not able to be funded earlier this year. (A 1 ton truck-\$140K, truck 100-\$30.K and a car 31 deputy car)

Selectman Hunter moved to approve the spending Selectman Ashton seconded. All in favor and the motion passes.

AUTHORIZATION TO PROCEED, SEWER EXTENSION PROJECT, POWDERMILL PLAZA –

Selectman Magee moves to accept a check in the amount of \$572,357.00 to extend the sewers at Powder Mill Plaza. Selectman Hunter seconds. All in favor and motion passes.

TRAFFIC SAFETY CONCERNS, SCHOOL STREET/CHADWICK STREET – This item will be put on the July agenda as a study prepared by the Chief of Police will need to be completed before discussions begin.

FEE WAIVER REQUEST, SENIOR RESIDENCE SPECIAL PERMIT, WOODLANDS AT LAUREL HILL – The Town Manager spoke in favor of saving the seniors \$13, 512.00 on the permit fee.

All selectmen were in favor and the request was approved.

LOCAL INITIATIVE PROJECT (LIP) REGULATORY AGREEMENT, MONITORING AGREEMENT AND APPLICATION FOR APPROVAL OF UNITS, ELLSWORTH VILLAGE – 3 units, 10 % of the total development of age restricted units. This is the first approval of the age restricted developments in Acton as Local Initiative Project (LIP) units.

The Selectmen approved the Regulatory Agreement, the Monitoring Services Agreement and the Affordable Housing Deed Rider. Selectman Ashton moved to approve. Selectman Hunter seconded. Approval was unanimous.

SENIOR WORK PROGRAM – Selectman Ashton stated that the program 7 years old. It is a popular program.

Motion moved to continue funding the program. All were in favor. Motion passed.

OTHER BUSINESS

Selectman Rosenzweig - Design Guidelines Committee report is ready to go before the Board.

Selectman Magee – The Governor vetoed the insurance for the Rail Trail. Andy recommended continuing to move forward on 25% designed plan.

Chairman Foster - Testified at the NESWC hearing with Senators Resor and Eldridge.

Selectman Hunter - Reiterated the lack of IT resources. Need to get IT resolved.

Selectman Ashton - Has a draft of the manager's review. It will be presented to the Board at the July meeting.

Selectman Ashton and Magee - Will review the final LIP for the Davis Place hearing.

The Town Manager had the Woodlands at Laurel Hill Memorandum Notice of Agreement. The Board did approve.

CONSENT AGENDA

All items 16-23 Chairman Foster moved to pass, Selectman Hunter seconded, move to pass was unanimous.

16. **DRAFT BOARD OF SELECTMEN'S MINUTES** for June 12, 2006 were approved.
17. **2006 RECERTIFICATION, "NO PLACE FOR HATE" COMMUNITY**, Anti-defamation League League for the Town of Acton
18. **CONFIDENTIAL REQUEST FOR FEE ASSISTANCE**, for NARA Park summer program
19. **ONE DAY LIQUOR LICENSE** request from Jennifer White, at NARA Park,
20. **ACCEPT GIFT, CITIZENS' LIBRARY AUXILIARY** – of a Library Membership to Fruitlands Museum (valued at \$85.00) from the Citizens' Library Auxiliary, to be used by the Citizens' Library,
21. **ACCEPT GIFT, ACTON GARDEN CLUB** – in the amount of \$300.00 from the Acton Garden Club, to be used for tree planting at NARA Park,
22. **ACCEPT GIFT, MATTHEW AND SUSAN MURPHY** – in the amount of \$50.00 from Matthew and Susan Murphy to be used for the Elm Street Lighting Project,
23. **ACCEPT GIFT, DAVID HARRINGTON** – in the amount of \$125.00 from David Harrington for tree planting at NARA Park,

Executive Session

Selectman Rosenzweig moved to go into executive session for the discussion of potential litigation. Roll was taken, all ayes. The Board adjourned into regular session only to adjourn the meeting.

TOWN MANAGER'S REPORT

None.

ADDITIONAL INFORMATION

Enclosed please find additional correspondence that is strictly informational and requires no Board action.

FUTURE AGENDAS

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This IS NOT a complete Agenda.

July 24
August 14
September 11 & 25

October 16 & 30
November 13 & 27

GOALS 2004-2005

1. Produce Morrison Farm Development Master Plan (Walter)
2. NARA Park: Fees

GOALS carried forward

3. Policy Review/Improve Communication with Town Boards (ALL), Improving Inter-Board Communication (Walter)
4. ALG process be used for purpose of Budget Planning for FY08 (Walter/Andy)
5. Middlesex Pension Alternatives (Peter)
6. Capital Plan for Town Meeting-Reengineering report (Peter/Mullin)

Recording Secretary

Lauren Rosenzweig, Clerk

Date

AGENDA BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

June 26, 2006

**Francis Faulkner Hearing Room
Acton Town Hall
7:00 P.M.**

I CITIZENS' CONCERNS

II SEWER COMMISSIONERS' BUSINESS

III PUBLIC HEARINGS & APPOINTMENTS

7:02 OPERATIONAL MINUTE – The Town Manager will give the Board a brief update on various topics.

- 1. 7:15 CHANGE OF MANAGER, NOT YOUR AVERAGE JOE'S, 305 MAIN STREET** – Enclosed please find materials in the subject regard, for Board consideration.
- 2. 7:30 SPECIAL PERMIT/SITE PLAN SPECIAL PERMIT # 11/18/98-366 PHASE II, ROBBINS BROOK SENIOR LIVING COMMUNITY, 906 MAIN STREET**– Enclosed please find materials in the subject regard, for Board consideration.
- 3. 7:45 ISSUING AUTHORITY REPORT (IAR), CABLE TELEVISION LICENSE PROCESS, VERIZON OF NEW ENGLAND, INC.** – Enclosed please find materials in the subject regard, for Board consideration.
- 4. 8:00 CLASS II DEALER'S LICENSE, WAY AUTO SALES, 188 MAIN STREET** – Enclosed please find materials in the subject regard, for Board consideration.
- 5. 8:15 SEWER EXTENSION REQUEST, SYLVIA STREET** – Enclosed please find materials in the subject regard, for Board consideration.
- 6. 8:30 EXCHANGE HALL REDEVELOPMENT PLAN UPDATE** – Enclosed please find materials in the subject regard, for Board consideration.

IV SELECTMEN'S BUSINESS

- 7. FY07 REAPPOINTMENT LIST** – Enclosed please find materials in the subject regard, for Board consideration.
- 8. BOARD OF SELECTMEN COMMITTEE ASSIGNMENTS AND GOALS DISCUSSION** – Enclosed please find materials in the subject regard, for Board consideration.

9. **FY06 YEAR-END BUDGET REPORT** – Enclosed please find materials in the subject regard, for Board consideration.
10. **AUTHORIZATION TO PROCEED, SEWER EXTENSION PROJECT, POWDERMILL PLAZA** – Enclosed please find materials in the subject regard, for Board consideration.
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14. **SENIOR WORK PROGRAM** – Enclosed please find materials in the subject regard, for Board consideration.
15. **OTHER BUSINESS**

VI CONSENT AGENDA

16. **ACCEPT MINUTES** – Enclosed please find Board of Selectmen's Minutes for June 12, 2006, for Board consideration
17. **2006 RECERTIFICATION, "NO PLACE FOR HATE" COMMUNITY, ANTI-DEFAMATION LEAGUE** – Enclosed please find materials in the subject regard, for Board consideration.
18. **CONFIDENTIAL REQUEST FOR FEE ASSISTANCE, NARA PARK SUMMER PROGRAM** – Enclosed please find materials in the subject regard, for Board consideration.
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VII TOWN MANAGER'S REPORT

VIII EXECUTIVE SESSION

THERE WILL BE A NEED FOR EXECUTIVE SESSION

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Sept. 11 & 25	

GOALS 2004-2005

1. Produce Morrison Farm Development Master Plan (Walter)
2. NARA Park
3. Pursue Commercial Tax Base
4. Master Plan review meeting once per year

GOALS carried forward

5. Monitor Labor Negotiations (Peter)
6. Improve Communication with Town Boards (ALL), Improving Inter-Board Communication (Dore')
7. Revisit 2020 planning process for direction to make this process more beneficial towards implementation of long-term vision, and to get a first rough cut of what happens next year before school is out for the summer (Peter)
8. ALG process be used for purpose of Budget Planning for FY05 (Dore'/Peter)
9. Process Planning for "Life after NESWC"
10. Middlesex Pension Alternatives (Walter)